

John J. Kane (SBN 24066794)
Kyle Woodard (SBN 24102661)
JaKayla J. DaBera (SBN 24129114)
KANE RUSSELL COLEMAN LOGAN PC
901 Main Street, Suite 5200
Dallas, Texas 75202
Telephone: (214) 777-4200
Telecopier: (214) 777-4299
Email: jkane@krcl.com
Email: kwoodard@krcl.com
Email: jdabera@krcl.com

**COUNSEL FOR ERIK WHITE, TRUSTEE
OF THE UNIVERSAL REHEARSAL PARTNERS
LIQUIDATING TRUST**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
UNIVERSAL REHEARSAL PARTNERS, LTD.,	§	Case No. 22-31966
Debtor.	§	
<hr/>		
UNIVERSAL REHEARSAL PARTNERS, LTD.,	§	
Plaintiff,	§	Adversary No. 23-03011
v.	§	
VINCENT BARNHILL	§	
Defendant.	§	
<hr/>		

MOTION TO ADOPT PROPOSED SCHEDULING ORDER

**NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN
RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES
BANKRUPTCY COURT AT 1100 COMMERCE STREET, ROOM 1254,
DALLAS, TEXAS 75242-1496 BEFORE CLOSE OF BUSINESS ON
SEPTEMBER 28, 2023, WHICH IS AT LEAST 21 DAYS FROM THE DATE
OF SERVICE HEREOF.**

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

Erik White, in his capacity as trustee (the "**Trustee**") of the Universal Rehearsal Partners Liquidating Trust (the "**Liquidating Trust**" or "**Trust**"), successor to Universal Rehearsal Partners, Ltd. (the "**Debtor**") in the above-captioned chapter 11 bankruptcy case, files this *Motion to Adopt Proposed Scheduling Order* (the "**Motion**") and, in support hereof, respectfully states as follows:

JURISDICTION & VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. The Debtor is a Texas limited partnership. John Kirtland ("**Kirtland**") owns a 50% limited partnership in the Debtor, and Vince Barnhill ("**Barnhill**") owns a 49% limited partnership interest. The Debtor's general partner, Q PM, LLC ("**QPM**"), owns the remaining 1% interest.

3. On October 21, 2022, the Debtor filed its voluntary petition for relief in this Court under Chapter 11 of Title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "**Court**").

4. On January 19, 2023, the Debtor filed a Notice of Removal [Dkt. #79] for the case of *Universal Rehearsal Partners LTD v. Barnhill*, Cause No. DC-22-00172, which was pending in the 191st District Court of Dallas County, Texas. The action is now pending before this Court as Adversary Proceeding No. 23-03011 (the "**URP Adversary Proceeding**").

5. Also on January 19, 2023, Kirtland filed a Notice of Removal [Dkt. #80] for the case of *John Kirtland v. Vince Edward Barnhill*, Cause No. DC-21-16507, which was pending in the 193rd District Court of Dallas County, Texas. The action is now pending before this Court as Adversary Proceeding No. 23-03012 (the "**Kirtland Adversary Proceeding**," and together with the URP Adversary Proceeding, the "**Adversary Proceedings**").

6. On February 28, 2023, the Court entered an *Order Consolidating Adversary Proceedings Pursuant to Rule of Bankruptcy Procedure 7042* consolidating the two Adversary Proceedings and joining the Kirtland Adversary Proceeding with the URP Adversary Proceeding for hearing and trial. *See* URP Adv. Dkt. #7; Kirtland Adv. Dkt. #5.

7. On February 24, 2023, the Debtor filed its *Chapter 11 Plan of Liquidation* [Dkt. #90] (the "**Plan**"). On April 5, 2023, the Court entered an order confirming the Plan [Dkt. #118] and approving the form of Trust Agreement (defined below), among other things. The Plan became effective on April 10, 2023 (the "**Effective Date**"). *See* Dkt. #121.

8. The Liquidating Trust was formed as of the Effective Date, pursuant to the Plan, and is governed by the terms of the Plan and the *Liquidating Trust Agreement* dated April 10, 2023, between the Debtor and the Trustee (the "**Trust Agreement**"). All of the Debtor's Causes of Action (as defined in the Plan) vested in the Liquidating Trust as of the Effective Date, and the Trustee has exclusive authority to enforce and pursue such Causes of Action. *See Plan §§ 6.02 and 6.06.*

9. The Plan authorizes the Trustee, in his sole discretion, "to assign derivative standing to pursue any estate Causes of Action to any person or entity so long as the Liquidating Trustee reasonably believes that the assignment of such standing will assist in or expedite the resolution of disputes pertaining to Class 5 Interests." *Plan § 6.06.* In accordance with this authority, on September 6, 2023, the Trustee filed a *Notice of Assignment of Derivative Standing* [Dkt. #158] (the "**Derivative Standing Notice**" or "**Notice**") assigning derivative standing to Kirtland to pursue any Causes of

Action the Trust may have against Barnhill, other than Causes of Action under Chapter 5 of the Bankruptcy Code (as defined in the Plan, "**Avoidance Actions**"), and assigning derivate standing to Barnhill to pursue any Causes of Action the Trust may have against Kirtland, other than Avoidance Actions. For the avoidance of doubt, the Trustee retains exclusive authority to pursue any and all Avoidance Actions.

REQUEST FOR RELIEF

10. The Trustee hereby requests that the Court adopt the proposed Scheduling Order attached hereto as **Exhibit A** (the "**Scheduling Order**") in the consolidated Adversary Proceedings.

11. In light of the derivate standing assigned by the Trustee to Kirtland and Barnhill, the Scheduling Order provides for Kirtland, Barnhill, and the Trustee to have thirty (30) days to amend their respective Complaints, claims, and counterclaims asserted in the Adversary Proceedings. The Scheduling Order also contains streamlined discovery deadlines given that the parties substantially completed all discovery prior to the actions being removed to this Court.

12. The Trustee believes that the terms of the Scheduling Order will enable an efficient and expeditious resolution of the Adversary Proceedings. The Trustee's counsel circulated a draft of the Scheduling Order to counsel for Kirtland and counsel for Barnhill on or around August 23, 2023. As of the date of this Motion, the Trustee has not received any comments or edits to the Scheduling Order from counsel for either party. Accordingly, the Trustee requests that the Court adopt and enter the Scheduling Order.

PRAYER

WHEREFORE, the Trustee respectfully requests that the Court grant this Motion and enter the Scheduling Order, substantially in the form attached hereto, and that the Trustee be granted such other relief as is just and proper

DATED: September 7, 2023

Respectfully submitted,

KANE RUSSELL COLEMAN LOGAN PC

By: /s/ JaKayla J. DaBera

John J. Kane

State Bar No. 24066794

Kyle Woodard

State Bar No. 24102661

JaKayla J. DaBera

State Bar No. 24129114

Bank of America Plaza
901 Main Street, Suite 5200
Dallas, Texas 75202
Telephone: (214) 777-4200
Telecopier: (214) 777-4299
Email: jkane@krcl.com
Email: kwoodard@krcl.com
Email: jdabera@krcl.com

**COUNSEL FOR ERIK WHITE, TRUSTEE OF
THE UNIVERSAL REHEARSAL PARTNERS
LIQUIDATING TRUST**

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2023, a true and correct of the foregoing Motion was filed with the Court and served (i) via the Court's electronic case filing system (ECF) upon all parties receiving such service in this bankruptcy case, and (ii) via email and/or regular U.S. mail, postage prepaid, upon counsel for all parties in this adversary proceeding.

/s/ JaKayla J. DaBera

JaKayla J. DaBera